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UNITED STATES OF AMERICA  
DEPARTMENT OF TRANSPORTATION  
OFFICE OF THE SECRETARY  
WASHINGTON, DC

Issued by the Department of Transportation on March 31, 2004

NOTICE OF ACTION TAKEN -- DOCKET OST-2004-17279 - 9

This serves as notice to the public of the action described below, taken by the Department official indicated (no additional confirming order will be issued in this matter).

Motion of United Parcel Service Co. filed 3/24/04, and supplemented 3/29/04, for:

**XX Motion for Immediate Allocation and Dismissal from Proceeding**

Background

By Order 2004-3-3 we instituted the 2004 Hong Kong Fifth-Freedom All-Cargo Frequency Proceeding to select carriers to operate fifth-freedom frequencies available for U.S. carrier services in the Hong Kong fifth-freedom market. There are 18 fifth-freedom frequencies available for allocation.<sup>1</sup> We received applications from four carriers, UPS, Federal Express, Northwest, and Polar, seeking a total of 15 frequencies. Federal Express, Northwest, and Polar all seek to use these frequencies at Seoul, a total of nine requested, which because of the city-pair cap (see footnote 1) will require us to engage in carrier selection as to those carriers. However, UPS is requesting to use all six of its requested frequencies for a routing of Hong Kong-Singapore-Macapagal starting in October 2004. In its Motion, UPS states that since the total available frequencies (i.e., non-Seoul) are undersubscribed, and its request for Hong Kong-Singapore-Macapagal authority is uncontested, the Department should immediately grant it six frequencies in the Hong Kong-Singapore-Macapagal market, and allow it to withdraw from the remainder of the proceeding.<sup>2</sup> UPS states that by granting its Motion the Department would be streamlining the remaining proceeding—allowing it to focus solely on which carrier would best serve the Hong Kong-Korea fifth freedom market with the five available Hong Kong-Seoul frequencies—and would also enable UPS to begin to address operational issues related to starting its service in October 2004. In its March 29 Supplement, UPS states that it polled the other three applicants in the proceeding and that none objects to its Motion.

Applicant rep: David L. Vaughan 202-955-9864 DOT Analyst: Sylvia Moore 202-366-6519

**DISPOSITION**

**XX Granted** (Motion of UPS)

**XX Granted** (Allocation of 6 Hong Kong fifth-freedom frequencies, subject to conditions, see below)

**XX Dismissed** (UPS from balance of 2004 Hong Kong Fifth Freedom All-Cargo Frequency Proceeding)

(See Reverse Side)

<sup>1</sup> Certain cities have city-pair caps, and services via those cities are limited. The MOU only permits 12 weekly fifth-freedom frequencies in the Seoul-Hong Kong market. The Department has allocated 7 of those 12 frequencies on a permanent basis, and thus, only 5 frequencies are available for Seoul-Hong Kong services. Sixteen frequencies become available under the bilateral on October 26, 2004.

<sup>2</sup>UPS states that in its application in this proceeding it had also requested back-up authority for Korea. In its Motion UPS withdraws its request for Hong Kong-Seoul authority.

The above action was effective when taken: **March 31, 2004**, and will remain in effect indefinitely, subject to conditions. Under the terms of the October 19, 2002, U.S.-Hong Kong MOU, these frequencies become available for use on October 26, 2004.

**Action taken by: Paul L. Gretch, Director**  
**Office of International Aviation**

Except to the extent exempted or waived, this authority is subject to the terms, conditions, and limitations indicated: **XX Holder's certificates of public convenience and necessity**

**Remarks:** We acted on this application without awaiting expiration of the answer period with the consent of all parties served.

**Conditions:** Consistent with our standard practice, the frequency allocation granted is subject to the condition that if any of the frequencies are not used for a period of 90 days, the allocation as to each of those frequencies will expire automatically and the frequencies will revert to the Department for reallocation. The 90-day dormancy period will begin on October 26, 2004.

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Under authority assigned by the Department in its regulations, 14 CFR Part 385, we found that (1) our action was consistent with Department policy; and (2) grant of the authority was consistent with the public interest. To the extent not granted or dismissed, we denied all requests in the referenced Docket. We may amend, modify, or revoke the authority granted in this Notice at any time without hearing at our discretion.

Persons entitled to petition the Department for review of the action set forth in this Notice under the Department's regulations, 14 CFR §385.30, may file their petitions within seven (7) days after the date of issuance of this Notice. This action was effective when taken, and the filing of a petition for review will not alter such effectiveness.

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